
| RESEARCH ARTICLE

The Tort of the Breach of Product Liability Principles: Comparative Study Between Indonesia and South Korea Law

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| ABSTRACT

Product Liability is an important element in consumer protection that requires manufacturers to be responsible for losses incurred due to defective or unsafe products. In Indonesia, consumer protection has been strengthened through Articles 19 and 27 of the Consumer Protection Law (UUPK), which emphasizes the responsibility of producers for damage caused by the goods produced. The scope of product liability is according to Article 1365 of the Indonesian Civil Code (Burgerlijk Wetboek abbreviated as "BW"), which regulates tort. However, the implementation of this law in Indonesia faces several challenges, such as difficulties for consumers in proving producer error and an unequal burden of proof. In comparison, South Korea has developed product liability laws, viz Product Liability Act (PLA), which is more proactive in protecting consumers. In the South Korean legal system, manufacturers are required to compensate for losses incurred with an emphasis on improving product safety. This research aims to analyze and compare the application of product liability in connection with tort in Indonesia and South Korea, as well as to identify steps that can be taken to improve consumer protection in Indonesia through a more effective and fair application of product liability doctrine.

| KEYWORDS

Tort, Product Liability, Consumer Protection

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1. Introduction

The legal basis of contemporary governance is protecting consumers. In some way, shape, or form, every person on this earth will eventually purchase goods and services. To maintain the relationship between producers and consumers, a legal framework that guarantees consumer protection must exist. By enacting Law Number 8 of 1999 concerning Consumer Protection (UUPK), Indonesia succeeded in achieving its goal of strengthening consumer protection. As a strategic step towards consumer justice, this law establishes a principle that places greater responsibility for safety on the seller or manufacturer rather than the buyer (*caveat emptor*) and begins to be directed the other way around to business actors who need to be careful (*caveat venditor*)¹. The state has demonstrated its dedication to improving the position of consumers in economic transactions through this principle.

Product liability or known *product liability* is an important element in consumer protection, which requires producers to be responsible for all losses experienced by consumers due to the use of defective or unsafe products. This concept is closely related to the legal principles contained in tort, as regulated in Article 1365 of the Civil Code (BW) so that every act that violates the law and causes loss to another party must be compensated. If a product fails to meet safety or quality requirements, consumers

¹ Sidarta. (2004). *Indonesian Consumer Protection Law* (p. 50). Jakarta: Grasindo.

can seek compensation for their losses through this article. But in reality, the burden of proof often falls on the customer's shoulders. The burden of proof is on the consumer to prove four things: first, that the manufacturer committed an illegal act; second, that an error occurred; third, that they suffered losses; and finally, that there is a direct correlation between the two.² Many people believe that producers should not have to bear this burden of proof because consumers are in a much weaker social and economic position than producers. When it comes to defending themselves, manufacturers often have more access to lawyers and specialists than customers.

Product liability is a relatively new concept in the Indonesian legal system. Some legal experts use the term "product responsibility" to refer to the obligation of business actors to compensate customers for damage, pollution or loss caused by the consumption of goods or services as confirmed in Article 19 of the Consumer Protection Law.³ However, the implementation of this principle in Indonesia faces challenges, such as producers' lack of understanding of their legal responsibilities, minimal consumer awareness of their rights, and weaknesses in law enforcement.

Product Liability in South Korea has developed rapidly, with a legal system known for its proactive approach to consumer protection. The country is revising regulations to adapt to changes in international trade and increasing public expectations regarding product safety. The legal system in South Korea emphasizes the importance of product responsibility, which aims to ensure products in circulation are of good quality, meet safety standards, and provide fair compensation to consumers who are harmed.

As concerns increase over the circulation of defective goods, South Korea has stepped up scrutiny of manufacturers and service providers. The main law governing the manufacturer's responsibility for losses resulting from product defects are *Product Liability Act (PLA)*. Based on Article 3 (1) of the PLA, manufacturers are required to provide compensation for damages that include bodily injury, property damage, or life damage caused by product defects, except for damage that only occurs to the product itself.⁴ This development shows the increasing responsibility that must be borne by producers in ensuring the safety and quality of the products they market.

2. Discussion

2.1 Legal Basis and Principles of Product Liability in Indonesia

Every sale and purchase agreement creates rights and obligations that must be fulfilled by both parties involved. The seller has the right to receive payment for the goods sold according to the agreed price. On the other hand, the buyer has the right to receive the goods he has purchased following the agreement made between the two parties.⁵

According to Subekti (1993), A legal obligation is an obligation that must be fulfilled, because if it is not fulfilled, it will give rise to legal consequences, namely demands that the obligation be fulfilled and a judge's decision that can force the fulfilment of the obligation. This obligation can arise from an agreement that arises from an agreement or is regulated by law and is often referred to as a binding legal obligation.⁶ Product responsibility (*product liability*) is the producer's obligation to consumers if a loss occurs as a result of the goods or services offered. *Product liability* emphasizes the obligation of producers to ensure that the products sold do not cause harm or danger to consumers. Therefore, the regulations related to *product liability* require manufacturers to maintain the quality and safety of products marketed.

According to Article 1365 of the Indonesian Civil Code (Burgerlijk Wetboek or abbreviated as "BW"), consumers who experience losses due to defective products can file claims against producers or traders based on tort (*onrechmatige daad*) which requires that there are four elements that must be fulfilled to categorize an act as a tort, namely: every unlawful act, that brings damage to another person, obliges the other person by whose fault causing such loss, to compensate such loss. These four elements must be fulfilled by the party producing or distributing the product.

This becomes even more complicated with the provisions in Article 27 of the Law on Consumer Protection, which reads: "*Business actors who produce goods are exempt from responsibility for losses suffered by consumers, if: a. it is proven that the goods should not*

² Subekti. (1979). *Law of Agreement* (p. 14). Jakarta: Intermedia

³ Gunawan, J. (1999). Business Actors' Responsibilities Under Law No. 8 of 1999 on Consumer Protection. *Business Journal*, 1, 10.

⁴ Chambers and Partners. (2024). *Product liability & safety 2024: South Korea*. <https://practiceguides.chambers.com/practice-guides/product-liability-safety-2024/south-korea>

⁵ Sekarwati, R. A. A., & Suparto, S. (2021). Consumer Protection in the Right to Obtain After-Sales Service in Indonesia and Europe. *Journal of Bina Mulia Law*, 277. <http://jurnal.fh.unpad.ac.id/index.php/jbmh/issue/archive>.

⁶ Subekti. (1979). *Law of Agreement* (p. 14). Jakarta: Intermedia.

be circulated or are not intended to be circulated; b. defects in goods arise at a later date; c. defects arise as a result of compliance with provisions regarding the qualification of goods; d. negligence caused by consumers; e. the expiry of the prosecution period of 4 (four) years since the goods were purchased or the agreed period of time has elapsed."

Article 27 of the Law on Consumer Protection provides several exceptions to the responsibility of business actors for losses suffered by consumers. This exception includes conditions where product defects appear later, products that should not be marketed, or losses caused by consumer negligence. This provision creates boundaries that clarify the circumstances in which business actors can be relieved of responsibility, as well as highlighting the role of consumers in maintaining the safety of the products they use.

The obligation of producers to prove that their products are not defective is based on tort which aims to protect consumers without requiring consumers to prove the producer's fault. This recognition of responsibility opens up space for consumers to claim compensation due to defective products, even though there is no direct contract between consumers and producers. This shows a change from a traditional legal system that prioritizes contractual relationships, towards a system that is more responsive to consumer protection through a fairer and more transparent product liability doctrine.

Claims for compensation based on breach of contract require an agreement between the plaintiff (consumer) and the defendant (producer).⁷ In this case, only the party bound by the agreement can submit a compensation claim. Compensation for default arises if one of the parties does not fulfil the main or additional obligations agreed upon in the agreement. The amount of compensation is not regulated by law but is determined based on an agreement between the two parties involved in the contract. In contrast, claims for compensation based on tort do not require the existence of a contractual relationship between producers and consumers. Third parties who suffer losses can also file a claim for compensation without having to have a prior agreement. To sue based on tort, the consumer or third party must be able to prove that the producer has committed a tort, made a mistake that caused the loss, and that the loss was a direct result of the producer's actions.

This demand places the burden of proof on consumers who must prove these four elements, which can feel unfair considering consumers' socio-economically weaker position than producers. In practice, consumers often find it difficult to prove producer negligence in the production or distribution process. Therefore, *product liability* which shifts the burden of proof to the producer, with the producer's obligation to prove that they were not negligent, is important in the context of consumer protection.

2.2 Legal Basis and Principles of Product Liability in South Korea

In Korea, product liability claims can refer to several laws, for example, Civil Law, Commercial Law, Product Liability Act/PLA, Consumer Framework Law, Product Safety Framework Law, Vehicle Management Law Motoring, and the Chemical Substances Control Act (K-REACH), depending on the case. However, the majority of product liability claims are filed under the PLA or the tort section of the Civil Code.⁸

Korea's Product Liability Act (PLA) defines movable goods that are industrially produced or processed, including those that are part of other movable or immovable goods. However, real property and unprocessed agricultural or livestock products are excluded from the definition of products under the PLA.

Most claims regarding product liability are based on the PLA or Civil Act. The PLA regulates product liability regulations. Article 3(1) of the PLA emphasizes that manufacturers must provide compensation for losses involving life, health or property due to product defects, except for damage that occurs to the product itself. The Serious Accidents Punishment Act was also regulated which was passed on January 26 2021 and then came into effect on January 27 2022. This provision regulates liability due to fatal accidents such as serious illness, serious injury/injury and even death resulting from product defects. The difference between the PLA and the Civil Act is that the PLA adheres to the Strict Liability principle, while the Civil Act or Commercial Act adheres to the fault-based principle. Therefore, product regulatory laws in Indonesia are often less specific and broader in scope than in South Korea.⁹

⁷ Miru, A., & Yodo, S. (2017). *Consumer Protection Law* (p. 127). King Grafindo.

⁸ Yang, G.-S., Song, B. J., Choi, J.-R., Shin, D. Y., Park, G.-S., Shin, & Kim. (2023). The Legal 500 Country Comparative Guides South Korea PRODUCT LIABILITY. *COUNTRY COMPARATIVE GUIDES 2023*, 2.

⁹ Kim, M. (2017). *Improving the Effectiveness of South Korean Product Liability Including Punitive Damages: A Comparative Analysis Between the United States and South Korea* United States and South Korea.

3. Comparative Analysis of Indonesian and South Korean Laws Based on Motor Vehicle Quality Cases in Indonesia with No.1025/Pdt.G/2020/PN JKT.SEL

3.1 Case Introduction

Yosua Pangihutan L. Tobing (Plaintiff I), Daniel Efendi (Plaintiff II), Christine (Plaintiff III), Iswardhi (Plaintiff IV), Khendi (Plaintiff V), Panji Ginanjar Sapurta (Plaintiff VI), and Washadi Bin Dasmad (Plaintiff VII), against the Defendants consisting of PT Sokonindo Automobile (Defendant I) and some other DFSK dealers. In short, in the lawsuit, the Plaintiffs accused the Defendants of committing a tort that caused losses. The beginning of this case occurred when the plaintiffs purchased a motor vehicle in the form of a DFSK car type Glory 580 1.5 CVT in 2018 (hereinafter referred to as the DFSK car). The vehicle experienced the same problem, namely not being able to climb in certain conditions, even though it had been checked, repaired and maintained according to official guidelines from the dealer. The Plaintiffs alleged that the vehicle had hidden defects. This problem is considered to cause fatal losses in the future, such as traffic accidents and life safety. So the plaintiffs felt disadvantaged because they could not use the car. One of the demands submitted is Article 1507 of the Civil Code because the seller's liability for hidden defects is different from ordinary liability. The Plaintiffs argued that the Defendants as business actors violated Article 8 of the Consumer Protection Law no. 8 of 1999, which prohibits trade in defective or damaged goods. The Defendants filed a defence because the lawsuit was unclear (*Obscure Libel*). After all, it confuses the concept of tort with breach of contract, as well as stating that there is an error on the part of the party (Error in Persona) and lack of parties to the lawsuit. At the end of the trial process, the Panel of Judges gave a decision, namely: rejected the objection submitted by the Defendants, **rejects all claims** submitted by the Plaintiffs, rejected all claims submitted by the Plaintiffs in the Reconvention and decided to charge all court costs to the Plaintiff in the Convention / Defendant in the Reconvention.

3.2 Overview of Product Liability and Consumer Protection Analysis under Indonesian Law

Product liability is an obligation owed by producers, who are business actors, to consumers if there is a loss of goods or services experienced by the consumer in a transaction.¹⁰ In this case, we discussed "hidden defects" in the product. Products can be considered defective if they fall into one of three categories, namely defects in the production process, defects in design, or lack of adequate information.¹¹

In this case, the consumer as the plaintiff must prove the following elements:

1. That the manufacturer has committed an act that violates the law.
2. That the manufacturer acted in error.
3. Consumers experience losses as a result of these actions.
4. That the losses suffered by consumers are a direct legal consequence of tort carried out by producers.

Quoting from Abdulkadir Muhammad, the theory of tort includes three types of liability, namely intentional, negligent and without fault. An action is considered to contain an element of error if it fulfils the elements of intent and negligence, and no excuse justifies the action.¹²

The principles of responsibility in law can be distinguished as follows:¹³

- a) The principle of responsibility is founded on the element of fault.
- b) The presumption that one is always responsible.
- c) The presumption that one is not always responsible.
- d) The principle of strict liability.
- e) The principle of liability with certain limitations.

¹⁰ Mamengko, R. S. (2016). Product Liability and Professional Liability in Indonesia. *Journal of Legal Studies*, 3(9), 1–10.

¹¹ Miru, A., & Yodo, S. (2017). *Consumer Protection Law* (p. 165). King Grafindo.

¹² Sari, I. (2020). "Tort in Criminal Law & Civil Law. *Aerospace Law Scientific Journal*, 1(11), 68.

¹³ Mamengko, R. S. (2016). Product Liability and Professional Liability in Indonesia. *Journal of Legal Studies*, 3(9), 2-3

The case above involving DFSK and its defective products shows the principle of strict liability which applies both in the Consumer Protection Law (UU No. 8 of 1999) and the Civil Code (KUHPperdata), especially in Article 1491, Article 1504, and Article 1506. Based on this principle, the producer or seller has full responsibility for losses experienced by consumers due to defects in the product, without the need to prove fault or negligence on the part of the producer. In this case, judges should not impose an excessive burden of proof on consumers, such as laboratory results or technical expert opinions to prove the existence of hidden defects. The required evidence must be sufficient to show that the product has a defect that is detrimental to consumers and that the loss occurred as a result of using the product that was provided by the manufacturer.

However, in the Indonesian legal framework which refers more to Article 1365 of the Civil Code regarding tort, apart from proving the existence of hidden defects, judges need to also consider the direct and indirect losses suffered by consumers or injured parties. This means that even though the manufacturer's responsibility is absolute, consideration of losses arising as a result of defective products remains an important part of the court process. In this context, losses can take the form of physical damage, material losses, or even immaterial losses related to disruption to consumers' comfort, reputation, or health.

3.3 Overview of the Concept Analysis of the Product Liability Act (PLA) and the Serious Accidents Punishment Act of South Korea

Judging from the approach in South Korea, the legal system in that country provides broader protection for consumers, along with regulations such as the Product Liability Act (PLA) and the Serious Accidents Punishment Act. The PLA concept in South Korea not only involves direct losses (such as damage to goods) but also includes indirect losses (such as medical costs or business interruption), as well as immaterial losses (such as pain or psychological trauma). This provides more comprehensive protection for consumers, where in addition to compensation, there is also the possibility of punishing the manufacturer if the accident occurs is very serious.

Apart from that, South Korea has strict sanctions in the form of the Serious Accidents Punishment Act, which can increase fines or sanctions three times the losses experienced by consumers. Although the South Korean legal system does not adhere to punitive damages like in the United States, which aims to punish perpetrators and prevent similar actions in the future, the existence of heavier sanctions for serious accidents provides a stronger deterrent effect for manufacturers. This creates greater legal certainty in consumer protection, where not only losses are calculated, but also sanctions are adjusted to the severity of the accident or loss that occurs.

A plaintiff must prove (i) the existence of a defect, (ii) harm to life, individuals, or property, and (iii) a causal relationship between the defect and the harm. The PLA defines a "defect" as a deficiency in the product related to the manufacturing process, design or warnings that include the following or a lack of the level of safety that the product is supposed to provide (Article 2(2) PLA).¹⁴

1. **Production defects:** defects that arise as a result of deviations from the original design due to failures in the manufacturing or processing of the product, even though the manufacturer has tried to carry out the obligation to be careful and thorough in the process.
2. **Design flaw:** the manufacturer's failure to select a reasonable alternative design, where the loss or risk caused by the product could be avoided or minimized.
3. **Warning defects:** failure of the manufacturer to provide adequate information, instructions, warnings or indications on the product, whereby the resulting damage or risk can be reduced or prevented.

The limitation period ends at the earlier of (i) three years after the injured party or his legal representative learns about the loss and the identity of the party who caused the loss, or (ii) ten years after the tort was committed (Article 766 of the Civil Act)

Additional developments in consumer protection regulations in South Korea are governed by the 2006 Basic Consumer Act, which designates the Korea Fair Trade Commission (KFTC) as responsible for consumer protection. The Korea Consumer Agency (KCA), a specialized body, oversees the implementation of these regulations. The KCA is authorized to carry out research and evaluations related to consumer protection, offer consumer education, and address complaints submitted by consumers. This institution also assists consumers in submitting compensation claims against business actors through the Consumer Dispute Settlement Commission (CDSC), as well as providing legal assistance to consumers involved in the mediation process. This indicates that in South Korea, consumer rights are not only protected but also promoted through a mediation process to ensure fair outcomes for

¹⁴ Yang, G.-S., Song, B. J., Choi, J.-R., Shin, D. Y., Park, G.-S., Shin, & Kim. (2023). The Legal 500 Country Comparative Guides South Korea PRODUCT LIABILITY. *COUNTRY COMPARATIVE GUIDES 2023*, 3.

consumers. An additional key element of consumer protection in South Korea is its responsiveness to changes in regulations. A recent example is the amendment of Law No. 15696 of 2018 on Consumer Protection and Law No. 15698 regarding Consumer Protection in E-Commerce Transactions.

Apart from that, in the case above, if the product liability concept is applied as regulated in the Product Liability Act (PLA) in South Korea, the burden of proof for the injured consumer becomes lighter. This is due to changes that occurred after the amendment to the PLA, where in tort cases in South Korea, plaintiffs are no longer required to prove all the elements in a tort claim as regulated in the South Korean Civil Code Act and Article 1365 of the Civil Code. In the context of product liability, the plaintiff only needs to prove two main things, namely:

1. There are obvious defects in the product, whether related to the production process, design, or failure to provide adequate information about the product.
2. Losses (damages) experienced by consumers as a result of these defects, whether physical damage to consumers or other material losses.

If these two elements can be proven by the plaintiff, then the element of causality between the hidden defect and the damage will be recognized presumptively by the court. This means that if the consumer can show that the product is defective and has caused harm, then there is a legal presumption that the defect is the direct cause of the loss, without the need to prove a causal relationship in detail. Such a system provides greater protection for consumers, as they do not have to face the heavy burden of proof that usually occurs in tort cases based on negligence or intent. This also creates clearer legal certainty for consumers and producers, where producers are expected to be more responsible for the quality of the products they produce.

Table of Several Key Points in the Comparative Study between Consumer Protection Law (Indonesia) and Product Liability Act (South Korea)

	Consumer Protection Law (Indonesia)	Product Liability Act (South Korea)
I	Definition of Defect :	Definition of Defect :
	<p>There are no definitions of Defects, but they are mentioned in Article 8 in several prohibition rules in production, such as compliance with product specification requirements, compliance with the law of the product, the expiration of products, inappropriate measures and weight, illegal claim of halal labels, no hidden defects, etc.</p> <p>Articles 9,10 and 11 mention prohibition rules of fallacious advertising and promotional activities.</p> <p>In the Indonesian Civil Code, (BW) the tort due to hidden defects is defined in Article 1504</p> <p>“The seller must be liable for the goods against hidden defects that render the goods unsuitable for their intended purpose or significantly diminish their utility. If the buyer had been aware of the defect, they would not have purchased the goods or would have done so only at a reduced price.”</p>	<p>Article 2(2) of the PLA</p> <ol style="list-style-type: none"> 1. Manufacturing defect: A flaw resulting from a deviation in the intended design due to issues in the manufacturing or processing stages, regardless of the manufacturer's efforts to ensure care and attention during production. 2. Design defect: The manufacturer's failure to implement a reasonable alternative design that could have minimized or avoided the potential risks or damages caused by the product. 3. Warning defect: The manufacturer's failure to provide adequate instructions, warnings, explanations, or other necessary information about the product, which could have reduced or prevented the risks or damages it caused.

II	<p>Claim for the breach of product liability</p> <p>Court practice in Indonesia commonly uses Tort as defined in Civil Code law Article 1365 and Article 1504 as mentioned before.</p> <p>Article 1365</p> <p>“Any act that contravenes the law and results in loss to another individual necessitates that the individual responsible for the loss, due to their fault, provide compensation.”</p> <p>Consumer Protection Law used as Lex Specialist referring to Article 8 in Consumer Protection Law.</p>	<p>Claim for the breach of product liability</p> <p>Court practice in South Korea commonly uses the Production Liability Act for hidden defects. Provided that there is an unclear situation as to whether the defect can fall into at least one of the 3 categories as defined in Article 2(2) PLA, then the plaintiff may bring the tort claim (Civil Code Law) due to the breach of regulatory duty such as illegal advertising activities from the fallacious message about the product. In this case, the tort is either an intentional act or negligence.</p>
III	<p>The Principle of Liability</p> <p>In the court practice commonly uses fault-based principles instead of strict liability principles.</p>	<p>The Principle of Liability</p> <p>Court practice distinguished clearly between the strict-liability principle in terms of tort claims under PLA and the fault-based principle in terms of tort claims under the Civil Code Law.</p>
IV	<p>Burden of Proof by the plaintiff</p> <p>In Indonesia, the claimant under the Civil Code Law shall prove in the court :</p> <ol style="list-style-type: none"> 1. The existence of a defect 2. Manufacturer’s/Sellers' intentional tort or negligence 3. The loss or damages 4. The Causation between the defect and the loss/damages 	<p>Burden of Proof by the plaintiff.</p> <p>After the amendment to the PLA, the claimant is only required to demonstrate the presence of the defect and the resulting loss or damage. The burden of proving the manufacturer's intentional tort or negligence is removed and causation between the defect and the loss or damage is presumed.</p> <p>Article 3-2 establishes a presumption of product defect and causation if the plaintiff can prove: (1) that the injury or loss was caused by the defective product under normal conditions; (2) that the injury or loss occurred within the control or domain of the responsible manufacturer or supplier; and (3) that the injury or loss would not have occurred without the defective product.</p> <p>If the claimant fails to prove that the defect fits the criteria defined in Article 2(2) of the PLA, the Civil Code will apply, requiring evidence of the manufacturer's intentional tort or negligence, along with the causation between the defect and the loss or damage.</p>
V	<p>Punitive damages</p>	<p>Punitive damages</p> <p>There is no imposition of punitive damages in South Korea. However, under The PLA the court can give</p>

	<p>There is no imposition of punitive damages in the Consumer Protection Law and the Civil Code Law in Indonesia.</p>	<p>punishment for the exemplary damage not exceeding three times the amount of actual damages.</p>
VI	<p>Product Liability Indemnification</p> <p>Following Article 27 Consumer Protection Law</p> <p>a. the item is proven to be unsuitable for distribution or not intended for distribution; b. defects in the item arise later;</p> <p>c. defects arise due to compliance with the provisions regarding the qualification of the item;</p> <p>d. negligence caused by the consumer;</p>	<p>Product Liability Indemnification</p> <p>According to Article 4(1) of the Product Liability Act, the manufacturer may not be held liable if:</p> <p>(i) They did not supply the product,</p> <p>(ii) the defect could not have been detected based on the scientific or technical knowledge available at the time the product was supplied, (iii) the defect resulted from complying with any law or regulation at the time of supply, or (iv) in the case of raw materials or components, the defect was due to the product's design or the manufacturing instructions provided by the manufacturer using those materials or components.</p>
VII	<p>The Statute of Limitations</p> <p>Following Article 27 Point e Consumer Protection Law</p> <p>"the expiration of the 4 (four)- year statute of limitations since the item was purchased or the expiration of the agreed-upon period."</p> <p>Civil Code Law in Indonesia Article 1967 has a general provision for the expiration of the 30-year statute of limitations.</p>	<p>The Statute of Limitations</p> <p>Under the provision of the PLA</p> <p>A claim under the PLA must be filed within the earlier of:</p> <p>(i) 10 years from the delivery of the defective product, or</p> <p>(ii) three years from the claimant's discovery of the damage and associated liability. In cases involving harm caused by hazardous substances or damages that become apparent after a latent period, the long-term statute of limitations will be calculated from the date the damage occurred.</p>

4. Conclusion

Overall, the goals of consumer protection laws in Indonesia and South Korea are similar, but the methods used to achieve these goals are very different. Article 1504 of the Indonesian Civil Code states that to claim compensation, the plaintiff must prove that the producer was negligent or acted unlawfully; on the contrary, the application of the principle of strict liability in South Korea makes it easier to claim compensation without having to prove negligence. In South Korea, consumers have a lower burden of proof, while in Indonesia, more in-depth evidence is required to prove negligence or tort activity, complicating legal procedures. Thus, it can be concluded that a comparison between regulations in Indonesia and South Korea shows that although Indonesia already has fairly complete regulations regarding product liability, the broader approach in the South Korean PLA can offer more comprehensive protection by considering various forms of loss, including immaterial losses. In addition, the existence of serious sanctions contained in the Serious Accidents Punishment Act provides stronger legal guarantees, not only for consumers but also

to prevent harmful business practices. Business actors or producers who sell products with defects or hidden defects can be considered to have committed a tort if the product causes harm to consumers. This action can be seen as a form of negligence or violation of legal obligations that the manufacturer should undertake to ensure the safety and security of the products being sold. The following elements must be met to classify the tort: error or negligence; losses incurred; and causality; there is no justification.

Therefore, manufacturers who fail to fulfil their legal obligations to ensure the products sold are safe and not harmful to consumers can be held legally responsible for the losses caused.

5. Suggestion

1. Adding specific details to the Consumer Protection Law in Indonesia, Indonesia needs to consider implementing the principle of strict liability in certain cases, especially those relating to defective products. This will make it easier for consumers to obtain compensation without having to prove negligence or tort by the manufacturer, as is applied in South Korea.
2. Simplification of the Evidence Process to speed up the legal process and reduce the heavy burden of proof for consumers. Application of presumptions regarding the causal relationship between product defects and the resulting losses can help reduce existing obstacles in the litigation process.
3. Increasing the Role of Dispute Resolution Institutions, Indonesia can follow the example of South Korea by strengthening the role of dispute resolution institutions, such as the Consumer Dispute Resolution Agency.
4. Strengthening the Supervision and Law Enforcement System to ensure consumer protection runs optimally, Indonesia needs to increase supervision of products circulating on the market and provide stricter sanctions against producers who sell defective products.

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